

## Minneapolis City Planning Department Report

Variance Request  
BZZ-1095

**Date:** April 9, 2003

**Applicant:** Bruce Erickson

**Address of Property:** 2101 Drew Avenue South

**Date Application Deemed Complete:** March 3, 2003

**End of 60 Day Decision Period:** May 2, 2003

**Contact Person and Phone:** Bruce Erickson, (612) 382-4099

**Planning Staff and Phone:** Hilary Watson, (612) 673-2639

**Ward:** 7      **Neighborhood Organization:** Bryn Mawr Neighborhood Association

**Existing Zoning:** R1

**Proposed Use:** In-ground swimming pool and deck and new fence

**Proposed Variance:** Variance to reduce the front yard setback along Drew Avenue South from the required 25 feet to 12 feet to allow for the construction of an in-ground swimming pool and to 5 feet to allow for the construction of a deck and a variance to increase the maximum height of a fence located in the front yard from the permitted 3 feet to 6 feet.

**Zoning code section authorizing the requested variance:** 525.520(1), (1) and (5)

**Concurrent Review:** None

**Previous Actions:** In September of 2001, the Board of Adjustment approved a variance to reduce the required front yard setback along Drew Avenue South from 25 feet to 11 feet 4 inches and a variance to reduce the required front yard setback along 21<sup>st</sup> Street West from 25 feet to 14 feet to allow a second story addition to the applicant's single-family dwelling.

**Background:** The applicant is proposing to install a 16-foot by 32-foot in-ground swimming pool in his back yard with a concrete and wood deck surround. As proposed, the swimming pool and the deck are located in the required front yard setback along Drew Avenue South. In addition, the applicant is proposing to construct a fence around the perimeter of the yard. Two-thirds of the fence is proposed to be six feet in height and the other one-third is proposed to be four feet in height. A portion of the six-foot high fence is located in the front yard and requires a variance.

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The swimming pool equipment and the deck on the southeast side of the property are both located in the required six-foot interior side yard setback. Staff is recommending that neither of these items be built in the required interior side yard setback.

### Findings Required by the Minneapolis Zoning Code:

1. **The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

**Front yard setback (swimming pool):** The applicant is seeking a variance to reduce the front yard setback along Drew Avenue South from the required 25 feet to 12 feet to allow for the construction of an in-ground swimming pool. The applicant has indicated that because the property is a reverse corner lot that the property is subject to two front yard setback requirements. This would mean, taking into consideration all required zoning district setbacks and the pool deck width requirements, that the proposed swimming pool could be a maximum of two feet wide.

**Front yard setback (deck):** The applicant is seeking a variance to reduce the front yard setback along Drew Avenue South from the required 25 feet to 5 feet to allow for the construction of a deck. The applicant has indicated that because the property is a reverse corner lot that the property is subject to two front yard setback requirements. The applicant has also indicated that for building code reasons there needs to be a deck at least four feet wide around the perimeter of the swimming pool.

**Fence height:** The applicant is seeking a variance to increase the maximum height of a fence located in the front yard from the permitted 3 feet to 6 feet. The applicant has indicated that because the property is a reverse corner lot that the property is subject to two front yard setback requirements. In addition, a public alley separates the applicant's property from the adjacent property to the southwest.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

**Front yard setback (swimming pool):** This parcel of land is unique in the fact that it is a reverse corner lot with two front yard setback requirements.

**Front yard setback (deck):** This parcel of land is unique in the fact that it is a reverse corner lot with two front yard setback requirements.

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**Fence height:** This parcel of land is unique in the fact that it is a reverse corner lot with two front yard setback requirements and that there is a public alley that separates this parcel from the adjacent parcel to the southwest.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

**Front yard setback (swimming pool):** The granting of this variance should not alter the essential character of the surrounding neighborhood as the swimming pool will not be seen by most properties in the area as the portion of the property where the swimming pool will be located is at a much higher elevation than the street. In addition, the area between the property line and where the swimming pool will be located is heavily landscaped.

**Front yard setback (deck):** The granting of this variance should not alter the essential character of the surrounding neighborhood as the deck will not be seen by most properties in the area as the portion of the property where the deck will be located is at a much higher elevation than the street. In addition, the area between the property line and where the deck will be located is heavily landscaped.

**Fence height:** Staff is generally concerned about the fortress-like quality that may be associated with the granting of fence height variances. However, in this situation the 6-foot high fence does not appear to be that fortress-like as the portion of the property that will be enclosed by the fence is located at a much higher elevation than the street and is separated from the adjacent property to the southwest by a public alley.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

**Front yard setback (swimming pool):** Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback for an in-ground swimming pool be detrimental to welfare or public safety.

**Front yard setback (deck):** Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback for a deck be detrimental to welfare or public safety.

**Fence height:** Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed fence six-foot high fence be detrimental to welfare or public safety.

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### **Recommendation of the City Planning Department:**

The City Planning Department recommends that the Board of Adjustment adopt the findings above and **approve** the variances to reduce the front yard setback along Drew Avenue South from the required 25 feet to 12 feet to allow for the construction of an in-ground swimming pool and to 5 feet to allow for the construction of a deck and **approve** the variance to increase the maximum height of a fence located in the front yard from the permitted 3 feet to 6 feet subject to the following conditions:

1. The Planning Department shall review and approve the final site plan.
2. The swimming pool equipment needs to be located at least six feet from the interior side property line.
3. The deck needs to be located at least six feet from the interior side property line.